

CITY OF
HAYWARD
HEART OF THE BAY

City Council Meeting
June 24, 2014

Tobacco Retail Sales Regulations
Text Amendment PL-2013-0389

Planning Division, Linda Ajello, AICP, Associate Planner
Development Services Department



Tobacco Retail Sales Regulations

Purpose:

- Establish regulations to reduce sales of tobacco products to youths; and
- enforcement at local level.

Background:

Community Outreach

- PC and CC Work Sessions
- Moratorium
- PC Public Hearing



Tobacco Regulations Overview

Establish Section 10-1.2780 – Tobacco Retail Sales Regulations

- Definitions
- Requirements and Operational Standards
- Tobacco Retailer License (TRL)
- Conditional Use Permit
- Existing Tobacco Retail Sales Establishments
- Inspections and enforcement



Permit Requirements for Tobacco Retail Sales Establishments

	TRL*	CUP	500' from sensitive receptors or existing residential district	500' from existing tobacco retailer
Existing Tobacco Retailer	X			
New Tobacco Retailer**	X	X	X	X
New Lg Format Retailer***	X			

**Includes compliance with all Requirements and Operational Standards and local, state and federal laws.*

***General Commercial Zoning District only.*

**** Stores >10,000 sf and 5% or less of floor area dedicated to storage and display.*

Proposed Regulations

ALL Establishments

- Compliance with local, state and/or federal laws re:
 - Advertising and display
 - Display of legal age and id requirements
 - Display of TRL
 - Minimum pack size
 - Sale of flavored tobacco products



New Establishments

- Prohibit sale of flavored tobacco products within 500' radius of private or public kindergarten, elementary, middle, junior high, or high school.



Tobacco Regulations Overview

Prohibited Uses in ALL zoning districts:

- Vapor bars or vapor lounges;
- smoking device bars or electronic smoking device lounges; and
- hookah bars or hookah lounges.



Tobacco Retailer License (TRL)

- Required for ALL new and existing tobacco retailers
- Renewed annually w/ business license
- Compliance with operational standards
- Annual inspections
- Enforcement provisions for violators of ordinance



Tobacco Retailer License (TRL) Fee

- Based on cost recovery for administration and enforcement
- Fee to be reassessed after two year baseline is established
- >100 cities and counties had adopted similar TRL:
 - Fee range \$30 (small cities w/ a few retailer) to \$1050
average fee range \$200-\$350
 - Oakland - \$50 annual fee and \$1500 annual inspection fee
 - Union City – \$665 annual fee
 - Berkeley - \$427 annual fee (with 3.5% COLA)



Program roll-out:

1. Program information letter
2. Tobacco retailers license application
3. Tobacco retailers inspection checklist
4. Web-page developed

- Minimum 1 Inspection per establishment annually
- Enforce local regulations and state and federal permit and licensing requirements.
- Three stage penalty process-
 - 1st Violation - \$1500 / 30 day suspension
 - 2nd Violation - \$3000 / 90 day suspension
 - 3rd Violation - \$5000 / 120 day suspension or revocation

Table of youth sales rates before and after adoption of a strong tobacco retailer licensing ordinance

Sept 2013 - The Center for Tobacco Policy & Organizing

	Date Passed	Youth Sales Rate Before Ordinance	Most Recent Youth Sales Rate
Berkeley	Dec-02	38%	4.20%
Contra Costa County	Jan-03	37%	3.80%
Davis	Aug-07	30.50%	7.80%
Sacramento	March-04	27%	15.10%
Sacramento County	May-04	21%	7.10%
San Francisco	Nov-03	22.30%	13.40%

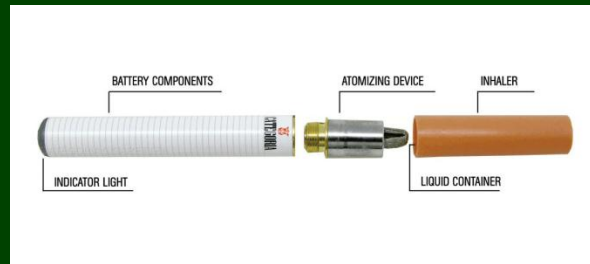


Tobacco Pollution Control Ordinance

Minor Amendments:

- electronic cigarettes:
- Revise definition of “smoking” and “tobacco products”
- Add definition of “smoke”

Revisions will make it unlawful for anyone to use electronic cigarettes and smoking devices wherever smoking is prohibited.



HPD Youth Decoy Program

- 2/17/14 - 28 establishments tested, 5 citations for selling tobacco to minor and 3 citations for selling e-cig
- 4/19/14 - 26 establishments tested, 5 citations for selling tobacco to minor
- 5/10/14 - 27 establishments tested, 2 citations for selling tobacco to minor
- 5/31/14 - 31 establishments tested; 4 cites for selling e-cigs to minor
- To date - 112 establishments tested; 12 cites for selling tobacco to minor; and 7 cites for selling e-cig (17% buy rate)



E-Cigarette Regulations

Since adoption of Moratorium:

- FDA Proposed Ruling to regulate e-cigarettes, cigars, etc., in the same manner as traditional tobacco products—released April 24, 2014 for 75-day public comment.
- May 12, 2014 UCSF Study - comprehensive assessment of peer-reviewed public research. Vapor from e-cigarettes not “harmless water vapor”. Concluded e-cigarettes should be regulated same as traditional tobacco.



Public Input

- Ordinance effective date
- Minimum pack size – cigars
- Sale of flavored tobacco products
- Large Format Retailer CUP exemption



Recommendation

Adopt three Ordinances and two Resolutions:

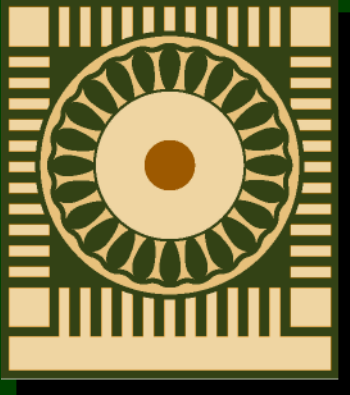
Ordinances

- Tobacco Retail Sales Regulations (Hayward Municipal Code Sections 10-1.2750 *et seq.*);
- CG Zoning District; and
- Smoking Pollution Control Ordinance.

Resolutions

- Negative Declaration/Initial Study and findings; and
- Master Fee Schedule.





CITY OF
HAYWARD
HEART OF THE BAY

City Council Meeting
June 24, 2014

Tobacco Retail Sales Regulations
Text Amendment PL-2013-0389

Planning Division, Linda Ajello, AICP, Associate Planner
Development Services Department

